



AF 12/11/11 JFW

PATENT  
Attorney Docket No.: SONY-22300

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Klaus Hofrichter et al.

Serial No.: 09/705,442

Filed: November 2, 2000

For: **CONTENT AND APPLICATION  
DOWNLOAD BASED ON A HOME  
NETWORK SYSTEM  
CONFIGURATION PROFILE**

) Group Art Unit: 2611

) Examiner: Lonsberry, Hunter B.

) **TRANSMITTAL LETTER**

) 162 North Wolfe Road  
) Sunnyvale, California 94086  
) (408) 530-9700

) Customer Number 28960

Mail Stop Appeal Brief-Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Enclosed please find an Appeal Brief and a check in the amount of \$500.00 to cover the surcharge for filing with the U.S. Patent and Trademark Office. Also attached is U.S. Patent No. 6,526,581 B1, U.S. Patent No. 6,470,378 B1, U.S. Patent No. 6,618,764 B1, and copies of office actions dated; November 18, 2004 and July 5, 2005.

The Commissioner is authorized to charge any additional fee or credit any overpayment to our Deposit Account No. 08-1275. **An originally executed duplicate of this transmittal is enclosed for this purpose.**

Respectfully submitted,  
HAVERSTOCK & OWENS LLP

Dated: October 25, 2005

By: Jonathan O. Owens  
Jonathan O. Owens  
Reg. No.: 37,902

Attorneys for Applicants

CERTIFICATE OF MAILING (37 CFR § 1.8(a))

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450

HAVERSTOCK & OWENS LLP.

Date: 10/25/05 By: JFO



PATENT  
Attorney Docket No.: SONY-22300

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of:	)	Group Art Unit: 2611
Klaus Hofrichter et al.	)	Examiner: Lonsberry, Hunter B.
Serial No.: 09/705,442	)	
Filed: November 2, 2000	)	
For: <b>CONTENT AND APPLICATION</b>	)	<b>APPEAL BRIEF</b>
<b>DOWNLOAD BASED ON A HOME</b>	)	162 North Wolfe Road
<b>NETWORK SYSTEM</b>	)	Sunnyvale, California 94086
<b>CONFIGURATION PROFILE</b>	)	(408) 530-9700
		Customer No.: 28960

Mail Stop Appeal Brief-Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In furtherance of the Applicants' Notice of Appeal filed on August 30, 2005, this Appeal Brief is submitted herewith in triplicate. This Appeal Brief is submitted in support of the Applicants' Notice of Appeal, and further pursuant to the final rejection mailed on July 5, 2005, in which Claims 1-7, 10-14, 18-21, 28-34, 37-44, 56-62 and 64-66 were rejected. The Applicants submit this Appeal Brief to the Board of Patent Appeals and Interferences in compliance with the requirements of 37 C.F.R. § 41.37, as stated in *Rules of Practice Before the Board of Patent Appeals and Interferences (Final Rule)*, 69 Fed. Reg. 49959 (August 12, 2004). The Applicants contend that the rejections of Claims 1-7, 10-14, 18-21, 28-34, 37-44, 56-62 and 64-66 in this proceeding are in error and are overcome by this appeal.

10/27/2005 HDESTA1 00000062 09705442

01 FC:1402

500.00 0P

**I. REAL PARTIES IN INTEREST**

As the assignee of the entire right, title, and interest in the above-captioned patent application, the real parties in interest in this appeal, is:

Sony Corporation, a Japanese Corporation  
6-7-35 Kitashinagawa, Shinagawa  
Tokyo, 141  
Japan

Sony Electronics Inc., a corporation of the State of Delaware  
1 Sony Drive  
Park Ridge, NJ 07656-8003

per the assignment document filed on January 26, 2001.

**II. RELATED APPEALS AND INTERFERENCES**

The Applicants are not aware of any other appeals or interferences related to the present application.

**III. STATUS OF THE CLAIMS**

Claims 1-7, 10-14, 18-21, 28-34, 37-44, 56-62 and 64-66 are pending in this case. Claims 1-7, 10, 12-14, 18-21, 28-34, 37-44, 56-62 and 64-66 stand rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 6,526,581 to Edson (hereinafter, Edson, a copy of which is attached as Exhibit A) in view of U.S. Patent 6,470,378 to Tracton (hereinafter, Tracton, a copy of which is attached as Exhibit B). Claim 11 is rejected under 35 U.S.C. § 103 as being unpatentable over Edson in view of Tracton in further view of U.S. Patent No. 6,618,764 to Shteyn (hereinafter, Shteyn, a copy of which is attached as Exhibit C). Within this Appeal Brief, Claims 1-7, 10-14, 18-21, 28-34, 37-44, 56-62 and 64-66 are appealed.

**IV. STATUS OF THE AMENDMENTS FILED AFTER FINAL REJECTION**

No amendments have been filed after the Office Action mailed on July 5, 2005.

**V. SUMMARY OF CLAIMED SUBJECT MATTER**

The invention disclosed in the present application number 09/705,442 is directed to a system and method for downloading selected multimedia content and applications based on a home network system configuration profile. The system and method taught in the present application identifies, accesses and manages service applications for use with associated consumer electronic devices in a home network system. A client side process, executed by a client computing system in the home network system, operates in conjunction with a server side process executed by a server via the Internet. The client computing system is implemented by a gateway device communicatively coupled with each of the electronic devices via the home network. The gateway device is operative to access the Internet and is communicatively coupled with a display unit.

The elements of Claim 1, directed to one embodiment of the present invention, are described in the Specification at page 12, line 3 through page 13, line 11 and the accompanying Figure 4. The process described there comprises determining device identification information associated with at least one electronic device included in a home network (step 202), determining a home network configuration profile based at least on said device identification information (step 230), providing said home network configuration profile to a server, wherein the server is remote from the home network (step 234), based on the provided home network configuration profile, automatically downloading an application from the server to the home network, the application being operative to provide to the or each electronic device, a control application, an interface application, a device interplay application, a support application, a diagnostic application, or a maintenance application (step 238) and executing said downloaded application within the home network.

The elements of Claim 28, directed to one embodiment of the present invention are described in the Specification at page 12, line 3 through page 13, line 11 and the accompanying Figure 4. The process described there comprises determining device identification information associated with at least one electronic device included in a home network (step 202), determining a home network configuration profile based at least on said device identification information (step 230), providing said home network configuration profile to a server, wherein the server is remote from the home network (step 234) and based on the provided home network

configuration profile, automatically downloading media content from the server to be output by at least one electronic device (step 238).

The elements of Claim 38, directed to one embodiment of the present invention, are described in the Specification at page 5, line 13 to page 9, line 17 and the accompanying Figure 1. The electronic device described there comprises a communications interface (16) through which the electronic device communicates with a remote server (21, 23), a network communications interface (32, 38) through which the electronic device communicates with devices within the network of devices (34, 40), wherein the electronic device communicates with the devices within the network of devices (34, 40) to determine device identification information for one or more of the devices and a configuration profile of the one or more of the devices, further wherein the electronic device automatically provides the configuration profile to the remote server (21, 23) through the communications interface (16) and, based on the provided configuration profile, automatically downloads an application from the remote server, the application being associated with the one or more of the devices and a processing circuit coupled to the communications interface and the network communications interface for executing the application to provide to the one or more devices, a control application, an interface application, a device interplay application, a support application, a diagnostic application, or a maintenance application.

The elements of Claim 56, directed to one embodiment of the present invention, are described in the Specification at page 5, line 13 to page 9, line 17 and the accompanying Figure 1. The electronic device described there comprises a communications interface (16) through which the electronic device communicates with a remote server (21, 23) and a network communications interface (32, 38) through which the electronic device communicates with devices within the network of devices (34, 40), wherein the electronic device communicates with the devices within the network of devices (34, 40) to determine device identification information for one or more of the devices and a configuration profile of the one or more of the devices, further wherein the electronic device automatically provides the configuration profile to the remote server (21, 23) through the communications interface (16) and, based on the provided configuration profile, automatically downloads media content from the remote server to be output by one or more of the devices.

**VI. GROUND OF REJECTION AND OTHER MATTERS TO BE REVIEWED ON APPEAL**

The following issues are presented in this Appeal Brief for review by the Board of Patent Appeals and Interferences:

1. Whether Claims 1-7, 10, 12-14, 18-21, 28-34, 37-44, 56-62 and 64-66 are properly rejected under 35 U.S.C. § 103 as being unpatentable over Edson in view of Tracton.
2. Whether Claim 11 is properly rejected under 35 U.S.C. § 103 as being unpatentable over Edson in view of Tracton and further in view of Shteyn.

**VII. ARGUMENT**

*Grounds for Rejection*

Within the Office Action, Claims 1-7, 10, 12-14, 18-21, 28-34, 37-44, 56-62 and 64-66 have been rejected under 35 U.S.C. § 103 as being unpatentable over Edson in view of Tracton.

*Outline of Arguments*

In the discussion that follows, the Applicants first discuss the teachings of Edson, the teachings of Tracton, and why the combination of Edson and Tracton is improper. As will be discussed in detail below, even if the combination of Edson and Tracton is considered proper, the combination does not teach determining device identification information for devices within a network and providing a configuration profile to a remote server. As also will be discussed in detail below, the combination of Edson and Tracton does not teach automatically downloading an application associated with a device within a network from a server based on the provided home network configuration profile.

1. Edson does not teach automatically downloading an application associated with a device within a network from a server based on the provided home network configuration profile.

Edson teaches a multi-service in-home network with an open interface. Edson teaches using a gateway providing an open software interface to control in-home communications and to enable in-home devices of various divergent technologies to selectively access external

communication features. [Edson, col. 5, lines 27-30] Edson teaches that the use of an open interface enables many different types of devices to communicate, and when desired, to access external communication resources through the in-home network media and the centralized gateway. [Edson, col. 5, lines 30-35] As recognized within the Office Action dated November 18, 2004, Edson does not teach determining device identification information for the devices within the network and providing a configuration profile to a remote server. [Office Action mailed November 18, 2004, attached as Exhibit D] Edson also does not teach automatically downloading an application associated with a device within a network from a server *based on the provided home network configuration profile*.

Furthermore, Edson teaches that diagnostics or software downloads could be automatic, but Edson does not teach automatic diagnostic software downloads as is claimed in the present invention. [Edson, col. 11, lines 37-40] Edson does not teach automatically downloading an application from the server to the home network, the application being operative to provide to the or each electronic device, a control application, an interface application, a device interplay application, a support application, a diagnostic application, or a maintenance application.

2. Tracton does not teach automatically downloading an application associated with a device within a network from a server based on the provided home network configuration profile

Tracton teaches dynamic content customization in a client server environment. Tracton teaches that the server sends a query to the client, requesting the client to identify its capabilities. [Tracton, col. 3, lines 55-58]. Tracton further teaches that the client then sends to the server a characteristic profile indicating to the server the client's available computing resources and network bandwidth. [Tracton, col. 3, lines 58-62] Tracton teaches that the server then is able to prepare or direct the client to appropriate resources. [Tracton, col. 3, lines 62-65] Tracton does not teach determining device identification information and a configuration profile for electronic devices within a *home network system*. Tracton only teaches that the client provides its own characteristic profile to the server. Unlike the characteristic profile of Tracton which includes computing resources and network bandwidth which are used generally for determining speed, the configuration profile of the present invention includes device identification information, home network user preferences, history of use, storage capacity, security capabilities as well as

resources and bandwidth. The characteristic profile of Tracton is not interchangeable with the configuration profile of the present invention.

Tracton also does not teach automatically downloading an application associated with a device within a network from a server *based on the provided home network configuration profile*.

3. The combination of Edson and Tracton is improper.

It is well settled that to establish a *prima facie* case of obviousness, three basic criteria must be met:

- 1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings;
- 2) there must be a reasonable expectation of success; and
- 3) the prior art reference, or references, must teach or suggest all the claim limitations. MPEP § 2143.

The burden of establishing a *prima facie* case of obviousness based on the teachings of Edson and Tracton has not been met within the Office Action because these references, either singularly or in combination, do not disclose all claim limitations in each of Applicants' independent claims, and because there is no suggestion or motivation to combine or modify these references.

The combination of Edson and Tracton does not teach the present invention, as claimed. As discussed above, Edson teaches a multi-service network with an open interface. Edson does not teach determining device identification information for the devices within the network and providing a configuration profile to a remote server. Tracton does not teach determining device identification information and a configuration profile for electronic devices within a *home network system*. Tracton teaches that a client provides only its own characteristic profile to a server. Accordingly, neither Edson, Tracton nor their combination teach determining device identification information for devices within a network and providing a configuration profile to a remote server. Further, neither Edson, Tracton nor their combination teach automatically downloading an application associated with a device within a network from a server *based on the provided home network configuration profile*.



There is no motivation to combine the teachings of Edson with Tracton. As discussed above, Edson relates to a multi-service network with an open interface. Tracton is not directed to a network of devices, but only to communications between a server and a client.

This is a classic case of impermissibly using hindsight to make a rejection based on obviousness. The Court of Appeals for the Federal Circuit has stated that “it is impermissible to use the claimed invention as an instruction manual or ‘template’ to piece together the teachings of the prior art so that the claimed invention is rendered obvious.” In Re Fritch, 972 F.2d, 1260, 1266, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992). As discussed above, Edson teaches a multi-service network with an open interface. Tracton is not directed to a *network of devices*, but *only* to communications between *a server and a client*. There is no hint, teaching or suggestion in any of these references to warrant their combination. As discussed above, Tracton is not directed to a network of devices. Further, neither Edson, Tracton nor their combination teach or make obvious determining device identification information for devices within a network and providing a configuration profile to a remote server. To conclude that this is obvious based on the teachings of these references is to use hindsight based on the teachings of the present invention and to read much more into Edson and Tracton than their actual teachings. This is simply not permissible based on the directive from the Court of Appeals for the Federal Circuit.

Within the Office Action, the motivation that is cited to justify the combination of Edson and Tracton is that the combination “would result in a system, which provides profile information to a remote server so that tailored application data would be provided to a home-networked device.” This is the result of the combination, which is an improper basis for justifying the combination. In order to be proper, as stated within section 2143 of the MPEP, quoted above, “there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.” Here, within the Edson or Tracton references, there is no suggestion or motivation within the references themselves to warrant their combination. Further, there is no suggestion or motivation in the knowledge that was generally available to one of ordinary skill in the art to combine the references. By justifying the combination with the result of the combination, this result being the advantages of the presently claimed invention, it is clear that the combination of Edson and Tracton has been based on hindsight. Only with the presently claimed invention as a template would one find the “motivation” or result provided within the Office Action. Accordingly, the combination of Edson with Tracton is improper.

Furthermore, “[t]he test for an implicit showing [of a teaching, suggestion or motivation] is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art.” In re Kotzab, 217 F.3d 1365, 1370 (Fed. Cir. 2000). Moreover, “particular findings must be made as to the reason the skilled artisan, with no knowledge of the claimed invention, would have selected these components for combination in the manner claimed.” Kotzab at 1371.

In Kotzab, the claims focused on an injection molding method using a single temperature sensor to control a plurality of flow control valves. The reference taught a multizone device having multiple sensors, each of which controlled an associated flow control valve, and also taught that one system may be used to control a number of valves. The court found there insufficient evidence to show that one sensor was the same as one system. Although the control of multiple valves by a single sensor rather than by multiple sensors was a “technologically simple concept,” there was no finding “as to the specific understanding or principle within the knowledge of the skilled artisan” that would have provided the motivation to use a single sensor as the system to control more than one valve. Kotzab at 1371.

In the present case, as in Kotzab, there are no showings of particular findings that a skilled artisan, with no knowledge of the claimed invention, would have selected the components from Edson and Tracton for combination in the manner claimed. As discussed above, Edson teaches a multi-service network with an open interface. Tracton is not directed to a *network of devices*, but *only* to communications between *a server and a client*. This is comparable to the court in Kotzab rejecting the argument that one sensor was the same as one system and stating that there was no finding as to a specific understanding or principle that would have provided the motivation to use a single sensor as a system to control more than one valve. The court did not allow a system to be interchanged with a sensor nor should the present Board allow a server and a client be interchanged with a network of devices. To conclude that this is obvious based on the teachings of these references is to use hindsight based on the teachings of the present invention and to read much more into Edson and Tracton than their actual teachings.

Even if the combination of Edson and Tracton is considered proper, it does not teach the presently claimed invention. In contrast to the teachings of Edson, Tracton and their combination, the present invention is directed to a system and method for identifying, accessing

and managing service applications for use with associated devices in a network of devices. A device within the network of devices determines device identification information associated with the devices in the network of devices, determines a network system configuration protocol based on the device identification information and provides the configuration profile to a remote server. The server determines an application operative to provide a process associated with devices within the network of devices and communicates that application to the device. The device executes the application to provide a remote interactive process associated with the devices. This interaction between the device and the server is performed automatically, without user intervention. As discussed above, neither Edson, Tracton nor their combination teach determining device identification information for devices within a network and providing a configuration profile to a remote server. Further, neither Edson, Tracton nor their combination teach executing an application at a device within a network of devices that was received from a server and is used to provide a remote interactive process with devices in the network of devices. Further, neither Edson, Tracton nor their combination teach automatically downloading an application from a server associated with a device within a network. As also discussed above, neither Edson, Tracton nor their combination teach that the application is operative to provide to the or each electronic device, a control application, an interface application, a device interplay application, a support application, a diagnostic application or a maintenance application.

4. The claims distinguish over Edson, Tracton and their combination.

The claims are grouped separately below to indicate that they do not stand or fall together.

a. Claims 1-7, 10, 12-14, 18-21 and 64

The independent Claim 1 is directed to a process of identifying and managing applications. The process of Claim 1 comprises determining device identification information associated with at least one electronic device included in a home network, determining a home network configuration profile based at least on said device identification information, providing said home network configuration profile to a server, wherein the server is remote from the home network, based on the provided home network configuration profile, automatically downloading an application from the server to the home network, the application being operative to provide to

the or each electronic device, a control application, an interface application, a device interplay application, a support application, a diagnostic application, or a maintenance application and executing said downloaded application within the home network. As discussed above, the combination of Edson and Tracton is not proper. As also discussed above, neither Edson, Tracton nor their combination teach determining device identification information associated with at least one electronic device included in a home network and determining a home network configuration profile based at least on said device identification information. Further, neither Edson, Tracton nor their combination teach providing a home network configuration profile to a server, wherein the server is remote from the home network. Still further, neither Edson, Tracton nor their combination teach executing an application that was received from a server within the home network. Further, neither Edson, Tracton nor their combination teach *based on the provided home network configuration profile*, automatically downloading an application from a server to the home network. As also discussed above, neither Edson, Tracton nor their combination teach that the application is operative to provide to the or each electronic device, a control application, an interface application, a device interplay application, a support application, a diagnostic application or a maintenance application. For at least these reasons, the independent Claim 1 is allowable over the teachings of Edson, Tracton and their combination.

Claims 2-7, 10, 12-14, 18-21 and 64 are dependent on the independent Claim 1. As discussed above, the independent Claim 1 is allowable over the teachings of Edson, Tracton and their combination. Accordingly, the dependent Claims 2-7, 10, 12-14, 18-21 and 64 are all also allowable as being dependent on an allowable base claim.

b.     Claims 28-34 and 37

The independent Claim 28 is directed to a process of identifying and accessing media content. The process of Claim 28 comprises determining device identification information associated with at least one electronic device included in a home network, determining a home network configuration profile based at least on said device identification information, providing said home network configuration profile to a server, wherein the server is remote from the home network and based on the provided home network configuration profile, automatically downloading media content from the server to be output by at least one electronic device. As

discussed above, the combination of Edson and Tracton is not proper. As also discussed above, neither Edson, Tracton nor their combination teach determining device identification information associated with at least one electronic device included in a home network and determining a home network configuration profile based at least on said device identification information. Further, neither Edson, Tracton nor their combination teach providing a home network configuration profile to a server remote from the home network. Still further, neither Edson, Tracton nor their combination teach *based on the provided home network configuration profile*, automatically downloading media content from the server to be output by at least one electronic device. For at least these reasons, the independent Claim 28 is allowable over the teachings of Edson, Tracton and their combination.

Claims 29-34 and 37 are dependent on the independent Claim 28. As discussed above, the independent Claim 28 is allowable over the teachings of Edson, Tracton and their combination. Accordingly, the dependent Claims 29-34 and 37 are all also allowable as being dependent on an allowable base claim.

c.     Claim 38-44 and 65

The independent Claim 38 is directed to an electronic device coupled to a network of devices. The electronic device of Claim 38 comprises a communications interface through which the electronic device communicates with a remote server, a network communications interface through which the electronic device communicates with devices within the network of devices, wherein the electronic device communicates with the devices within the network of devices to determine device identification information for one or more of the devices and a configuration profile of the one or more of the devices, further wherein the electronic device automatically provides the configuration profile to the remote server through the communications interface and, based on the provided configuration profile, automatically downloads an application from the remote server, the application being associated with the one or more of the devices and a processing circuit coupled to the communications interface and the network communications interface for executing the application to provide to the one or more devices, a control application, an interface application, a device interplay application, a support application, a diagnostic application, or a maintenance application. As discussed above, the combination of Edson and Tracton is not proper. As also discussed above, neither Edson, Tracton nor their combination teach determining device identification information for one or more of the devices

and a configuration profile of the one or more of the devices. Further, neither Edson, Tracton nor their combination teach an electronic device that automatically provides the configuration profile to a remote server. Still further, neither Edson, Tracton nor their combination teach an electronic device that *based on the provided configuration profile*, automatically downloads an application from the remote server, the application being associated with the one or more of the devices. As also described above, neither Edson, Tracton nor their combination teach executing the application to provide a control application, an interface application, a device interplay application, a support application, a diagnostic application or a maintenance application. For at least these reasons, the independent Claim 38 is allowable over the teachings of Edson, Tracton and their combination.

Claims 39-44 and 65 are dependent on the independent Claim 38. As discussed above, the independent Claim 38 is allowable over the teachings of Edson, Tracton and their combination. Accordingly, the dependent Claims 39-44 and 65 are all also allowable as being dependent on an allowable base claim.

d.     Claims 56-62 and 66

The independent Claim 56 is directed to an electronic device coupled to a network of devices. The electronic device of Claim 56 comprises a communications interface through which the electronic device communicates with a remote server and a network communications interface through which the electronic device communicates with devices within the network of devices, wherein the electronic device communicates with the devices within the network of devices to determine device identification information for one or more of the devices and a configuration profile of the one or more of the devices, further wherein the electronic device automatically provides the configuration profile to the remote server through the communications interface and, based on the provided configuration profile, automatically downloads media content from the remote server to be output by one or more of the devices. As discussed above, the combination of Edson and Tracton is not proper. As also described above, neither Edson, Tracton nor their combination teach an electronic device that communicates with the devices within a network of devices to determine device identification information and a configuration profile. Further, neither Edson, Tracton nor their combination teach an electronic device that automatically provides the configuration profile to a remote server. Still further, neither Edson, Tracton nor their combination teach an electronic device that *based on the provided*

*configuration profile*, automatically downloads media content from the remote server to be output by one or more of the devices. For at least these reasons, the independent Claim 56 is allowable over the teachings of Edson, Tracton and their combination.

Claims 57-62 and 66 are dependent on the independent Claim 56. As discussed above, the independent Claim 56 is allowable over the teachings of Edson, Tracton and their combination. Accordingly, the dependent Claims 57-62 and 66 are all also allowable as being dependent on an allowable base claim.

#### *Grounds for Rejection*

Within the Office Action, Claim 11 has been rejected under 35 U.S.C. § 103 as being unpatentable over Edson in view of Tracton and in further view of Shteyn. The Applicants respectfully disagree. As discussed above, the combination of Edson and Tracton is not proper. For the same reasons identified above, the combination of Edson, Tracton and Shteyn is also not proper.

Further, as described in detail above, neither Edson, Tracton nor their combination teach determining device identification information for devices within a network and providing a configuration profile to a remote server. As also discussed in detail above, the combination of Edson and Tracton does not teach automatically downloading an application associated with a device within a network from a server based on the provided home network configuration profile. Shteyn also does not teach determining device identification information for devices within a network and providing a configuration profile to a remote server or automatically downloading an application associated with a device within a network from a server based on the provided home network configuration profile. Accordingly, neither Edson, Tracton, Shteyn nor their combination teach determining device identification information for devices within a network and providing a configuration profile to a remote server or automatically downloading an application associated with a device within a network from a server based on the provided home network configuration profile.

Claim 11 is dependent on the independent Claim 1. As discussed above, the independent Claim 1 is allowable over the teachings of Edson, Tracton and their combination. Accordingly, the dependent Claim 11 is also allowable as being dependent on an allowable base claim.

4. CONCLUSION

For the above reasons, it is respectfully submitted that the Claims 1-7, 10-14, 18-21, 28-34, 37-44, 56-62 and 64-66 are allowable over the cited prior art references. Therefore, a favorable indication is respectfully requested.

Respectfully submitted,  
HAVERSTOCK & OWENS LLP

Dated: October 25, 2005

By: Jonathan O. Owens  
Jonathan O. Owens  
Reg. No.: 37,902  
Attorneys for Applicants



## **VIII. CLAIMS APPENDIX**

This appendix includes a list of the claims under appeal.

1. A process of identifying and managing applications comprising:
  - determining device identification information associated with at least one electronic device included in a home network;
  - determining a home network configuration profile based at least on said device identification information;
  - providing said home network configuration profile to a server, wherein the server is remote from the home network;
  - based on the provided home network configuration profile, automatically downloading an application from the server to the home network, the application being operative to provide to the or each electronic device, a control application, an interface application, a device interplay application, a support application, a diagnostic application, or a maintenance application; and
  - executing said downloaded application within the home network.
2. A process of identifying and managing applications as recited in claim 1 further comprising determining a bandwidth capacity of the home network, and wherein determining a home network configuration profile further includes determining said home network configuration profile based on said bandwidth capacity.
3. A process of identifying and managing applications as recited in claim 1 further comprising determining a user profile for a user of the home network, and wherein determining a home network configuration profile further includes determining said home network configuration profile based on said user profile.
4. A process of identifying and managing applications as recited in claim 1 further comprising determining a history of use of the home network, and wherein determining a home network configuration profile further includes determining said home network configuration profile based on said history of use.

5. A process of identifying and managing applications as recited in claim 1 further comprising determining a storage capacity of at least one memory device available in the home network, and wherein determining a home network configuration profile further includes determining said home network configuration profile based on said storage capacity.

6. A process of identifying and managing applications as recited in claim 1 further comprising determining at least one content decoding capability available in the home network, and wherein determining a home network configuration profile further includes determining said home network configuration profile based on said content decoding capability.

7. A process of identifying and managing applications as recited in claim 1 further comprising determining at least one security and decryption capability available in the home network, and wherein determining a home network configuration profile further includes determining said home network configuration profile based on said security and decryption capability.

Claims 8 and 9 (canceled).

10. A process of identifying and managing applications as recited in claim 1 wherein automatically downloading an application comprises:  
determining a search key based on said device identification information; and  
using said search key to query said server for an application associated with the electronic device.

11. A process of identifying and managing applications as recited in claim 1 wherein said device identification information identifies at least two electronic devices in the home network, and wherein said downloaded application comprises a device interplay application that utilizes resources of each of the at least two electronic devices.

12. A process of identifying and managing applications as recited in claim 1 wherein said downloaded application is operative to remotely control the electronic device.

13. A process of identifying and managing applications as recited in claim 1 wherein the home network provides for communicative coupling between the electronic devices within the home network in order to exchange instructions and audio-visual data between or among the electronic devices within the home network.

14. A process of identifying and managing applications as recited in claim 1 further comprising automatically downloading content from the server to be output by at least one of the electronic devices.

Claims 15-17 (canceled).

18. A process as recited in claim 1 wherein said home network configuration profile further comprises information indicating a bandwidth capacity of the home network.

19. A process as recited in claim 1 wherein said home network configuration profile further comprises information indicating a user profile for a user of the home network.

20. A process as recited in claim 1 wherein said home network configuration profile further comprises information indicating a history of use of the home network.

21. A process as recited in claim 1 wherein said home network configuration profile further comprises information indicating a total storage capacity of memory devices available in the home network.

Claims 22-27 (canceled).

28. A process of identifying and accessing media content comprising:  
determining device identification information associated with at least one electronic device included in a home network;  
determining a home network configuration profile based at least on said device identification information;  
providing said home network configuration profile to a server,  
wherein the server is remote from the home network; and

based on the provided home network configuration profile, automatically downloading media content from the server to be output by at least one electronic device.

29. A process of identifying and accessing media content as recited in claim 28 further comprising determining a bandwidth capacity of the home network, and wherein determining a home network configuration profile further includes determining said home network configuration profile based on said bandwidth capacity.

30. A process of identifying and accessing media content as recited in claim 28 further comprising determining a user profile for a user of the home network, and wherein determining a home network configuration profile further includes determining said home network configuration profile based on said user profile.

31. A process of identifying and accessing media content as recited in claim 28 further comprising determining a history of use of the home network, and wherein determining a home network configuration profile further includes determining said home network configuration profile based on said history of use.

32. A process of identifying and accessing media content as recited in claim 28 further comprising determining a storage capacity of at least one memory device available in the home network, and wherein determining a home network configuration profile further includes determining said home network configuration profile based on said storage capacity.

33. A process of identifying and accessing media content as recited in claim 28 further comprising determining at least one content decoding capability available in the home network, and wherein determining a home network configuration profile further includes determining said home network configuration profile based on said content decoding capability.

34. A process of identifying and accessing media content as recited in claim 28 further comprising determining at least one security and decryption capability available in the home network, and wherein determining a home network configuration profile further includes determining said home network configuration profile based on said security and decryption capability.

Claims 35 and 36 (canceled).

37. A process of identifying and accessing media content as recited in claim 28 wherein automatically downloading selected media comprises:

determining a search key based on said device identification information; and  
using said search key to query said server for media content.

38. An electronic device coupled to a network of devices comprising:  
a communications interface through which the electronic device communicates with a remote server;

a network communications interface through which the electronic device communicates with devices within the network of devices, wherein the electronic device communicates with the devices within the network of devices to determine device identification information for one or more of the devices and a configuration profile of the one or more of the devices, further wherein the electronic device automatically provides the configuration profile to the remote server through the communications interface and, based on the provided configuration profile, automatically downloads an application from the remote server, the application being associated with the one or more of the devices; and

a processing circuit coupled to the communications interface and the network communications interface for executing the application to provide to the one or more devices, a control application, an interface application, a device interplay application, a support application, a diagnostic application, or a maintenance application.

39. The electronic device as claimed in claim 38 wherein the configuration profile is based on bandwidth capacity.

40. The electronic device as claimed in claim 38 wherein the configuration profile is based on a user profile for a user of the network of devices.

41. The electronic device as claimed in claim 38 wherein the configuration profile is based on a history of use of the network of devices.

42. The electronic device as claimed in claim 38 wherein the configuration profile is based on storage capacity of at least one memory device available in the network of devices.

43. The electronic device as claimed in claim 38 wherein the configuration profile is based on at least one content decoding capability within the network of devices.

44. The electronic device as claimed in claim 38 wherein the configuration profile is based on at least one security and decryption capability available within the network of devices.

Claims 45-55 (canceled).

56. An electronic device coupled to a network of devices comprising:  
a communications interface through which the electronic device communicates with a remote server; and  
a network communications interface through which the electronic device communicates with devices within the network of devices, wherein the electronic device communicates with the devices within the network of devices to determine device identification information for one or more of the devices and a configuration profile of the one or more of the devices, further wherein the electronic device automatically provides the configuration profile to the remote server through the communications interface and, based on the provided configuration profile, automatically downloads media content from the remote server to be output by one or more of the devices.

57. The electronic device as claimed in claim 56 wherein the configuration profile is based on bandwidth capacity.

58. The electronic device as claimed in claim 56 wherein the configuration profile is based on a user profile for a user of the network of devices.

59. The electronic device as claimed in claim 56 wherein the configuration profile is based on a history of use of the network of devices.

60. The electronic device as claimed in claim 56 wherein the configuration profile is based on storage capacity of at least one memory device available in the network of devices.
61. The electronic device as claimed in claim 56 wherein the configuration profile is based on at least one content decoding capability within the network of devices.
62. The electronic device as claimed in claim 56 wherein the configuration profile is based on at least one security and decryption capability available within the network of devices.
63. (canceled).
64. A process of identifying and managing applications as recited in claim 1 wherein the downloaded application is executed at a gateway device.
65. The electronic device as claimed in claim 38 wherein the electronic device comprises a gateway device.
66. The electronic device as claimed in claim 56 wherein the electronic device comprises a gateway device.

**IX. EVIDENCE APPENDIX**

**STATEMENT**

Pursuant to 37 C.F.R. § 41.37(c)(1)(ix), the following is a statement setting forth where in the record the evidence of this appendix was entered by the examiner:

<b>Evidence Description:</b>	<b>Where Entered:</b>
U.S. Pat. No. 6,526,581	Office Action mailed May 7, 2004
U.S. Pat. No. 6,470,378	Office Action mailed May 7, 2004
U.S. Pat. No. 6,618,764	Office Action mailed November 18, 2004
Office Action mailed November 18, 2004	Examiner Office Action
Office Action mailed July 5, 2005	Examiner Office Action

**X. RELATED PROCEEDINGS APPENDIX**

There are no related proceedings.





# UNITED STATES PATENT AND TRADEMARK OFFICE

*Sony. 22300*  
UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/705,442	11/02/2000	Klaus Hofrichter	20381-19 (50P3910)	7693

7590 11/18/2004  
Jonathan O Owens  
Haverstock & Owens LLP  
162 North Wolfe Road  
Sunnyvale, CA 94086

EXAMINER

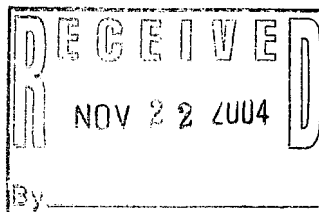
LONSBERRY, HUNTER B

ART UNIT PAPER NUMBER

2611

DATE MAILED: 11/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



## Office Action Summary

Application No.

09/705,442

Applicant(s)

HOFRICHTER ET AL.

Examiner

Hunter B. Lonsberry

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7, 10-14, 18-21, 28-34, 37-44, 56-62 and 64-66 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-14, 18-21, 28-34, 37-44, 56-62 and 64-66 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 7/30/04 have been fully considered but they are not persuasive.

1) Applicant argues that Edson does not teach determining device ID information for devices within the network, providing a configuration profile to a remote server, and automatically downloading an application associated with a device (Response page 10).

Regarding applicant's argument 1, Edson discloses automatically downloading an application from a server to the home network (column 11, lines 37-40). The examiner relies upon Tracton to teach determining a device ID (column 8, lines 6-39) and providing a configuration profile (column 8, lines 6-39).

2) Applicant argues that Tracton does not teach automatically downloading an application associated with a device from a server (Response page 11), determining device information for devices within a network and providing a configuration profile to a remote server (response page 12) and that Tracton only teaches that the client provides its own profile to the server.

Regarding applicants argument 1, the examiner relies on Edson for teaching automatically downloading an application associated with a device from a server (column 11, lines 37-40) and for determining a home network profile (column 11, lines 4-19, column 12, lines 21-27, column 14, lines 52-67). Tracton

Art Unit: 2611

is relied upon for transmitting a hardware profile to a server and determining ID information for a hardware device (column 3, line 66-column 4, line 14, column 8, lines 6-39). Claim 1 merely requires that a profile is transmitted which is based on at least one electronic device and it's associated ID information. As Traction discloses a network with at least 1 device, which transmits its profile information to a remote server, Traction teaches providing a configuration profile to a server. The combination of Edson and Traction, would result in a system, which provides profile information to a remote server so that tailored application data would be provided to a home-networked device.

3) Applicant argues the Gibbs reference.

Applicant's arguments regarding Gibbs are moot. In the current office action, the Gibbs reference has been dropped, and in its place, additional citations from both Edson and Traction have been substituted.

4)Applicant argues that hindsight was used to create the combination of Edson, Tracton and Gibbs.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the

applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). In the current office action, the Gibbs reference has been dropped, and in its place, additional citations from both Edson and Tracton have been substituted. Edson discloses automatically downloading an application from a server to the home network (column 11, lines 37-40) and creating a network configuration profile. Tracton is relied upon for transmitting a hardware profile to a server and determining ID information for a hardware device in order to provide appropriate application data. (column 3, line 66-column 4, line 14, column 8, lines 6-39). The combination of Edson and Tracton, would result in a system, which provides profile information to a remote server so that tailored application data would be provided to a home-networked device.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-7, 10, 12-14, 18-21, 28-34, 37-44, 56-62, and 64-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,526,581 to Edson in view of U.S. Patent 6,470,378-B1 to Tracton.

Regarding claim 1, Edson discloses a processes of identifying and managing applications comprising:

Determining a home network configuration profile (column 11, lines 4-19, column 12, lines 21-27, column 14, lines 52-67),

Automatically downloading an application from the server to the home network, the application being operative to provide to the electronic device a diagnostic application (column 11, lines 37-40)

Executing said downloaded application within the home network (column 11, lines 37-40)

Edson does not disclose determining device identification information associated with at least one electronic device in the network system, transmitting a profile to a remote server and based upon the profile downloading an application from the server to a network.

Tracton discloses a system in which a client machine 102, builds a profile which includes processor speed, memory, data storage size, and network speed and sends this profile to a server in order to receive a network application (differently formatted MPEG streams) based upon its profile (column 3, line 66-column 4, line 14, line 33-column 8, line 39), each transmitted profile includes a hardware identifier which may be a MAC address, or unique processor identification value, as well as a characteristics portion (column 8, lines 6-39).

Therefore it would have been obvious to one skilled in the art at the time of invention to modify Edson to include the determine device information to create a profile, transmit the profile to a remote server and download the

Art Unit: 2611

appropriate data based upon that profile as taught by Tracton in order to tailor the application data to the configuration of the home network.

Regarding claims 2, 18, 29, 39, 57, Tracton discloses determining the profile based on bandwidth capacity (column 5, lines 49-61).

Regarding claims 3, 4, 19, 20, 30, 31, 40, 41, 58 and 59, Tracton discloses a transmitting a profile to a server which includes hardware information, a Netscape browser may be run on a user device (column 76, lines 44-49).

The combination of Edson and Tracton does not disclose a profile, which includes history of use information, and a user profile.

The examiner takes official notice that utilizing a user profile, and taking into account history of use information is notoriously well known in the art. For example, Windows95 enables specific user logins which enable a user to have tailored settings for fonts, background colors and the like, likewise a web browser may transmit a history of use in order to customize advertising to a user.

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the combination of Edson and Tracton to utilize a user profile, and to include history of use information as part of a profile, thus enabling user customization of a graphical interface, in a manner which is aesthetically pleasing to a user.

Art Unit: 2611

Regarding claims 5-6, 21, 32, 33, 42, 43, 60, and 61, Tracton discloses a system in which a client machine 102, builds a profile which includes processor speed, memory, data storage size, and network speed and sends this profile to a server in order to receive a network application (differently formatted MPEG streams) based upon its profile (column 3, line 66-column 4, line 14, line 33-column 8, line 39).

Regarding claim 7, 34, 44, and 62, Tracton discloses a profile, which includes hardware capabilities.

The combination of Edson and Tracton fails to disclose security and decryption capabilities.

The examiner takes official notice that storing information concerning security and decryption capabilities is notoriously well known in the art. For example, Netscape Navigator includes certificates and cryptographic modules which are used to enable secure access to applications or remote servers, if a certificate is unauthorized, or a level of encryption is unsupported, the application is not able to access any additional data.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Edson and Traction to utilize the security certificates and cryptographic modules of Netscape, in order to provide protection to a user for sensitive data.



Regarding claims 10 and 37, Traction discloses transmitting client ID information and performing a search to match up an application which will be displayed appropriately based upon the clients characteristics (column 3, line 66-column 4, line 14, line 33-column 8, line 39).

Regarding claim 12, Edson discloses a gateway 13 with CPU 105, which may execute an IP telephony application through the internet (column 9, lines 15-33). Edson's IP telephony application inherently controls AV devices, as the Gateway 13 would have to control either the ADSL modem, XLINX or DSL interface in order to transmit data associated with the IP telephony device to the Internet.

Regarding claim 13, Edson discloses that the home-networked devices may exchange instructions and AV data (column 7, lines 44-56, column 15, lines 14-28).

Regarding claim 14, Tracton discloses that after the profile is transmitted to the server, the content is then automatically downloaded for display (column 5, lines 24-49, column 5, lines 47-64).

Regarding claim 28, Edson discloses a processes of identifying and accessing media comprising:

Art Unit: 2611

Determining a home network configuration profile (column 11, lines 4-19, column 12, lines 21-27, column 14, lines 52-67),

Automatically downloading an application from the server to the home network, the application being operative to provide to the electronic device a diagnostic application (column 11, lines 37-40)

Executing said downloaded application within the home network (column 11, lines 37-40)

Edson does not disclose determining device identification information associated with at least one electronic device in the network system, transmitting a profile to a remote server and based upon the profile downloading an application from the server to a network.

Tracton discloses a system in which a client machine 102, builds a profile which includes processor speed, memory, data storage size, and network speed and sends this profile to a server in order to receive a network application (differently formatted MPEG streams) based upon its profile (column 3, line 66-column 4, line 14, line 33-column 8, line 39), each transmitted profile includes a hardware identifier which may be a MAC address, or unique processor identification value, as well as a characteristics portion (column 8, lines 6-39).

Therefore it would have been obvious to one skilled in the art at the time of invention to modify Edson to include the determine device information to create a profile, transmit the profile to a remote server and download the appropriate data based upon that profile as taught by Tracton in order to tailor the application data to the configuration of the home network.

Regarding claims 38 and 56, Edson discloses in figure 1, a gateway 13, coupled to a network of devices comprising,

A communications interface (CATV interface 17, x-link 19, ADSL15, Figure 2), which the electronic device communicates with a remote server (column 10, lines 15-29, column 11, lines 24-40),

A network communications interface which the electronic device communicates with the devices within the network of devices (figure 2, Power Line interface 123, HPNA interface 121)

Determining a home network configuration profile (column 11, lines 4-19, column 12, lines 21-27, column 14, lines 52-67),

Automatically downloading an application from the server to the home network, the application being operative to provide to the electronic device a diagnostic application (column 11, lines 37-40)

Executing said downloaded application within the home network (column 11, lines 37-40).

Edson does not disclose determining device identification information associated with at least one electronic device in the network system, transmitting a profile to a remote server and based upon the profile downloading an application from the server to a network.

Tracton discloses a system in which a client machine 102, builds a profile which includes processor speed, memory, data storage size, and network speed and sends this profile to a server in order to receive a network application

(differently formatted MPEG streams) based upon its profile (column 3, line 66-column 4, line 14, line 33-column 8, line 39), each transmitted profile includes a hardware identifier which may be a MAC address, or unique processor identification value, as well as a characteristics portion (column 8, lines 6-39).

Therefore it would have been obvious to one skilled in the art at the time of invention to modify Edson to include the determine device information to create a profile, transmit the profile to a remote server and download the appropriate data based upon that profile as taught by Tracton in order to tailor the application data to the configuration of the home network.

Regarding claim 64, Edson discloses that the downloaded application is executed at a gateway device 13 (column 11, lines 30-33).

Regarding claims 65 and 66, Edson discloses a gateway device 13 (Figures 1 and 2).

3. Claims 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,526,581 to Edson in view of U.S. Patent 6,470,378-B1 to Tracton in further view of U.S. Patent 6,618,764 to Shteyn.

Regarding claim 11, Tracton and Edson disclose networked applications.

The combination of Tracton and Edson do not disclose the use of a downloaded device interplay application, which utilizes the resources of at least 2 electronic devices.

Shteyn discloses a HAVI enabled network, which utilizes a HAVI registry 324 which keeps track of devices on the home network, software 320 may connect to the Internet to download a Java applet, which enables the control of lights on the network by another object (column 15, line 31-column 16, line 55).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Tracton and Edson to utilize the HAVI network and registry of Shteyn, thus enabling interoperability of different devices on a common network.

### ***Conclusion***


4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hunter B. Lonsberry whose telephone number is 703-305-3234. The examiner can normally be reached on Monday-Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on 703-305-4755. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

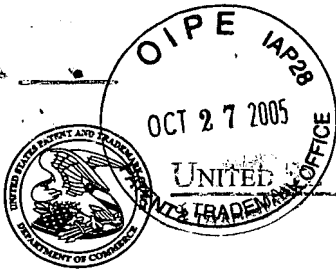
Art Unit: 2611

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HBL



CHRIS GRANT  
PRIMARY EXAMINER



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

Serial 22300

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/705,442	11/02/2000	Klaus Hofrichter	20381-19 (50P3910)	7693

7590 07/05/2005  
Jonathan O Owens  
Haverstock & Owens LLP  
162 North Wolfe Road  
Sunnyvale, CA 94086

EXAMINER

LONSBERRY, HUNTER B

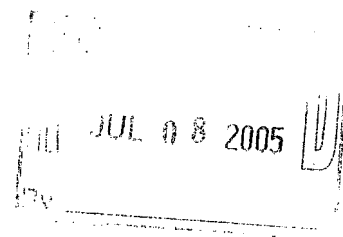
ART UNIT PAPER NUMBER

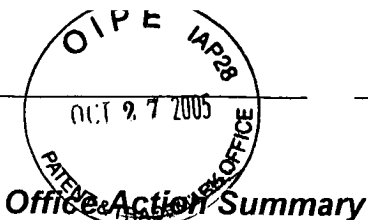
2611

DATE MAILED: 07/05/2005



Please find below and/or attached an Office communication concerning this application or proceeding.





Application No.

09/705,442

Applicant(s)

HOFRICHTER ET AL.

Examiner

Hunter B. Lonsberry

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-7, 10-14, 18-21, 28-34, 56-62 and 64-66 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-14, 18-21, 28-34, 56-62 and 64-66 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_



## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 2/23/05 have been fully considered but they are not persuasive.

1)Applicant argues that Edson does not teach determining device ID information for devices within the network, providing a configuration profile to a remote server, and automatically downloading an application associated with a device based on a home network configuration profile (Response page 2).

Regarding applicant's argument 1, Edson discloses automatically downloading an application from a server to the home network (column 11, lines 37-40). The examiner relies upon Tracton to teach determining a device ID (column 8, lines 6-39) and providing a configuration profile (column 8, lines 6-39, column 11, lines 4-39, column 12, lines 21-27, column 14, lines 52-67). Additionally, Edson discloses that the downloads of configurations, diagnostics and software and may be preformed automatically without user input for the PC, gateway and other data devices, thus configuration information for each device forms a configuration profile of the devices on the home network (column 11, lines 30-40).

Applicant argues that Tracton does not teach automatically downloading an application associates with a device within a network from a served based on the provided home network configuration profile (response page 3).

Regarding applicants argument 1, the examiner relies on Edson for teaching automatically downloading an application associated with a device from a server (column 11, lines 37-40) and for determining a home network profile (column 11, lines 4-19, column 12, lines 21-27, column 14, lines 52-67). Tracton is relied upon for transmitting a hardware profile to a server and determining ID information for a hardware device (column 3, line 66-column 4, line 14, column 8, lines 6-39). Claim 1 merely requires that a profile is transmitted which is based on at least one electronic device and it's associated ID information. As Traction discloses a network with at least 1 device, which transmits its profile information to a remote server, Traction teaches providing a configuration profile to a server. The combination of Edson and Traction, would result in a system, which provides profile information to a remote server so that tailored application data would be provided to a home-networked device.

Applicant argues that there is no motivation to combine Edson with Tracton, and that hindsight was used in the combination (response pages 3-5).

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a

Art Unit: 2611

reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In the current office action, the Gibbs reference has been dropped, and in its place, additional citations from both Edson and Tracton have been substituted. Edson discloses automatically downloading an application from a server to the home network (column 11, lines 37-40) and creating a network configuration profile. Tracton is relied upon for transmitting a hardware profile to a server and determining ID information for a hardware device in order to provide appropriate application data which is tailored to the devices on the network (column 3, line 66-column 4, line 14, column 8, lines 6-39). The combination of Edson and Tracton, would result in a system, which provides profile information to a remote server so that tailored application data would be provided to a home-networked device.

Applicant argues that neither Edson, Tracton nor their combination teach an electronic device based on the provided configuration profile automatically downloads

Art Unit: 2611

an application from the remote server, or downloads media content from a remote server to be output on one or more of the devices.

Regarding applicants argument, Edson discloses on column 11, lines 4-40, automatically downloading applications (software downloads, diagnostics), which are based on configuration information. Tracton discloses downloading webpages and MPEG data based on configuration data (column 7, lines 15-25, 35-53).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-7, 10, 12-14, 18-21, 28-34, 37-44, 56-62, and 64-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,526,581 to Edson in view of U.S. Patent 6,470,378-B1 to Tracton.

Regarding claim 1, Edson discloses a processes of identifying and managing applications comprising:

Determining a home network configuration profile (column 11, lines 4-19, column 12, lines 21-27, column 14, lines 52-67),

Automatically downloading an application from the server to the home network, the application being operative to provide to the electronic device a diagnostic application (column 11, lines 37-40)

Executing said downloaded application within the home network (column 11, lines 37-40)

Edson does not disclose determining device identification information associated with at least one electronic device in the network system, transmitting a profile to a remote server and based upon the profile downloading an application from the server to a network.

Tracton discloses a system in which a client machine 102, builds a profile which includes processor speed, memory, data storage size, and network speed and sends this profile to a server in order to receive a network application (differently formatted MPEG streams) based upon its profile (column 3, line 66-column 4, line 14, line 33-column 8, line 39), each transmitted profile includes a hardware identifier which may be a MAC address, or unique processor identification value, as well as a characteristics portion (column 8, lines 6-39), thus transmitting application data which is tailored to the configuration of the device.

Therefore it would have been obvious to one skilled in the art at the time of invention to modify Edson to include the determine device information to create a profile, transmit the profile to a remote server and download the appropriate data based upon that profile as taught by Tracton in order to tailor the application data to the configuration of the home network.

Regarding claims 2, 18, 29, 39, 57, Tracton discloses determining the profile based on bandwidth capacity (column 5, lines 49-61).

Regarding claims 3, 4, 19, 20, 30, 31, 40, 41, 58 and 59, Tracton discloses a transmitting a profile to a server which includes hardware information, a Netscape browser may be run on a user device (column 76, lines 44-49).

The combination of Edson and Tracton does not disclose a profile, which includes history of use information, and a user profile.

The examiner takes official notice that utilizing a user profile, and taking into account history of use information is notoriously well known in the art. For example, Windows95 enables specific user logins which enable a user to have tailored settings for fonts, background colors and the like, likewise a web browser may transmit a history of use in order to customize advertising to a user.

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the combination of Edson and Tracton to utilize a user profile, and to include history of use information as part of a profile, thus enabling user customization of a graphical interface, in a manner which is aesthetically pleasing to a user.

Regarding claims 5-6, 21, 32, 33, 42, 43, 60, and 61, Tracton discloses a system in which a client machine 102, builds a profile which includes processor speed, memory, data storage size, and network speed and sends this profile to a server in order to

receive a network application (differently formatted MPEG streams) based upon its profile (column 3, line 66-column 4, line 14, line 33-column 8, line 39).

Regarding claim 7, 34, 44, and 62, Tracton discloses a profile, which includes hardware capabilities.

The combination of Edson and Tracton fails to disclose security and decryption capabilities.

The examiner takes official notice that storing information concerning security and decryption capabilities is notoriously well known in the art. For example, Netscape Navigator includes certificates and cryptographic modules which are used to enable secure access to applications or remote servers, if a certificate is unauthorized, or a level of encryption is unsupported, the application is not able to access any additional data.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Edson and Traction to utilize the security certificates and cryptographic modules of Netscape, in order to provide protection to a user for sensitive data.

Regarding claims 10 and 37, Traction discloses transmitting client ID information and performing a search to match up an application which will be displayed appropriately based upon the clients characteristics (column 3, line 66-column 4, line 14, line 33-column 8, line 39).

Regarding claim 12, Edson discloses a gateway 13 with CPU 105, which may execute an IP telephony application through the internet (column 9, lines 15-33). Edson's IP telephony application inherently controls AV devices, as the Gateway 13 would have to control either the ADSL modem, XLINX or DSL interface in order to transmit data associated with the IP telephony device to the Internet.

Regarding claim 13, Edson discloses that the home-networked devices may exchange instructions and AV data (column 7, lines 44-56, column 15, lines 14-28).

Regarding claim 14, Tracton discloses that after the profile is transmitted to the server, the content is then automatically downloaded for display (column 5, lines 24-49, column 5, lines 47-64).

Regarding claim 28, Edson discloses a processes of identifying and accessing media comprising:

Determining a home network configuration profile (column 11, lines 4-19, column 12, lines 21-27, column 14, lines 52-67),

Automatically downloading an application from the server to the home network, the application being operative to provide to the electronic device a diagnostic application (column 11, lines 37-40)



Art Unit: 2611

Executing said downloaded application within the home network (column 11, lines 37-40)

Edson does not disclose determining device identification information associated with at least one electronic device in the network system, transmitting a profile to a remote server and based upon the profile downloading an application from the server to a network.

Tracton discloses a system in which a client machine 102, builds a profile which includes processor speed, memory, data storage size, and network speed and sends this profile to a server in order to receive a network application (differently formatted MPEG streams) based upon its profile (column 3, line 66-column 4, line 14, line 33-column 8, line 39), each transmitted profile includes a hardware identifier which may be a MAC address, or unique processor identification value, as well as a characteristics portion (column 8, lines 6-39).

Therefore it would have been obvious to one skilled in the art at the time of invention to modify Edson to include the determine device information to create a profile, transmit the profile to a remote server and download the appropriate data based upon that profile as taught by Tracton in order to tailor the application data to the configuration of the home network.

Regarding claims 38 and 56, Edson discloses in figure 1, a gateway 13, coupled to a network of devices comprising,

Art Unit: 2611

A communications interface (CATV interface 17, x-link 19, ADSL15, Figure 2), which the electronic device communicates with a remote server (column 10, lines 15-29, column 11, lines 24-40),

A network communications interface which the electronic device communicates with the devices within the network of devices (figure 2, Power Line interface 123, HPNA interface 121)

Determining a home network configuration profile (column 11, lines 4-19, column 12, lines 21-27, column 14, lines 52-67),

Automatically downloading an application from the server to the home network, the application being operative to provide to the electronic device a diagnostic application (column 11, lines 37-40)

Executing said downloaded application within the home network (column 11, lines 37-40).

Edson does not disclose determining device identification information associated with at least one electronic device in the network system, transmitting a profile to a remote server and based upon the profile downloading an application from the server to a network.

Tracton discloses a system in which a client machine 102, builds a profile which includes processor speed, memory, data storage size, and network speed and sends this profile to a server in order to receive a network application (differently formatted MPEG streams) based upon its profile (column 3, line 66-column 4, line 14, line 33-column 8, line 39), each transmitted profile includes a hardware identifier which may be

Art Unit: 2611

a MAC address, or unique processor identification value, as well as a characteristics portion (column 8, lines 6-39).

Therefore it would have been obvious to one skilled in the art at the time of invention to modify Edson to include the determine device information to create a profile, transmit the profile to a remote server and download the appropriate data based upon that profile as taught by Tracton in order to tailor the application data to the configuration of the home network.

Regarding claim 64, Edson discloses that the downloaded application is executed at a gateway device 13 (column 11, lines 30-33).

Regarding claims 65 and 66, Edson discloses a gateway device 13 (Figures 1 and 2).

3. Claims 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,526,581 to Edson in view of U.S. Patent 6,470,378-B1 to Tracton in further view of U.S. Patent 6,618,764 to Shteyn.

Regarding claim 11, Tracton and Edson disclose networked applications.

The combination of Tracton and Edson do not disclose the use of a downloaded device interplay application, which utilizes the resources of at least 2 electronic devices.

Shteyn discloses a HAVI enabled network, which utilizes a HAVI registry 324 which keeps track of devices on the home network, software 320 may connect to the Internet to download a Java applet, which enables the control of lights on the network by another object (column 15, line 31-column 16, line 55).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Tracton and Edson to utilize the HAVI network and registry of Shteyn, thus enabling interoperability of different devices on a common network.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hunter B. Lonsberry whose telephone number is 571-

Application/Control Number: 09/705,442  
Art Unit: 2611

Page 14

272-7298. The examiner can normally be reached on Monday-Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HBL

  
CHRIS GRANT  
PRIMARY EXAMINER